

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SYNQOR, INC.,

Plaintiff,

v.

ARTESYN TECHNOLOGIES, INC.
ASTEC AMERICA, INC.,
BEL FUSE INC.,
CHEROKEE INTERNATIONAL CORP.,
DELTA ELECTRONICS, INC.,
DELTA PRODUCTS CORP.,
LINEAGE POWER CORPORATION,
MURATA ELECTRONICS NORTH AMERICA,
INC.,
MURATA MANUFACTURING CO., LTD.,
MURATA POWER SOLUTIONS, INC.,
POWER-ONE, INC.,

Defendants.

Civil Action No. 2:07-CV-497 (TJW) (CE)

JURY

**FISH DEFENDANTS' UNOPPOSED MOTION FOR CLARIFICATION OF THEIR
MOTION IN LIMINE 12 IN LIGHT OF NEW DEVELOPMENTS**

The Fish Defendants submit this brief to request an additional clarification regarding their motion in limine 12, which this Court has granted. SynQor does not oppose the filing of this Motion.

The Fish Defendants filed a motion in limine on November 12, 2010 to preclude SynQor from referring to the parties' summary judgment motions or proponents of such motions. The Court granted this motion. (D/E 703).

On December 2, 2010, Judge Ward denied the defendants' motion for summary judgment finding no willful infringement. In so doing, Judge Ward stated as part of his discussion:

Thus, at least as to art that was disclosed, Defendants' invalidity defenses have been tested and found lacking by the PTO. The issuance of the '083 and '702 patents over Defendants' asserted prior art creates an objectively high likelihood that the '083 and '702 patents are valid over that prior art, similar to the result of the reexamination in St. Clair.

(D/E 715). However, Judge Ward did not state that no reasonable jury could find otherwise, nor did any party request him to make such a finding. Notably, SynQor did not file a motion for summary judgment of willfulness. Further, Judge Ward did not consider other highly relevant evidence in the case, including reexaminations where the Patent Office has rejected the claims of the '190 and '021 patents and found a substantial new question of patentability for the '083 and '702 patents.

This Court has already found that SynQor may not refer to the defendants' summary judgment motions. This Court has likewise found that the defendants are precluded from presenting any evidence, testimony, attorney argument, or other comments concerning the Court's prior summary judgment ruling invalidating thirteen of the asserted claims (SynQor's motion in limine 9).

Consistent with these prior orders, the Court should likewise preclude SynQor from referencing Judge Ward's comments in front of the jury. If SynQor were allowed to present Judge Ward's comments to the jury, they will be taken out of context and will be extremely prejudicial. The jury should determine whether there is an objectively high likelihood that the '083 and '702 patents are valid based on the evidence before them. Therefore, the Fish Defendants respectfully request that this Court issue an order *in limine* to preclude SynQor from making reference to Judge Ward's statements in front of the jury.

Dated: December 9, 2010

Respectfully submitted,

By: /s/ E. Glenn Thames, Jr.

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MURATA POWER SOLUTIONS, INC., AND

POWER-ONE, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on December 9, 2010 to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by first class mail.

/s/ E. Glenn Thames, Jr.

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